

MEMORANDUM OF AGREEMENT

Between

Montana Federation of Public Employees (MFPE)

and

Montana Department of Corrections (DOC)

For MFPE membership employees, DOC's recent mandate for COVID-19 testing and PPE shall read as follows:

COVID-19, a respiratory disease that can result in serious illness or death, is caused by SARS-CoV-2 Virus, which is a new strain of coronavirus that had not previously been identified in humans and can easily spread from person to person. The virus that causes COVID-19 most commonly spreads between people who are in close contact with one another (within about 6 feet, or 2 arm lengths). COVID-19 is spreading easily and sustainably in the community in some geographical areas ("community spread"). Community spread means people have been infected with the virus in an area, including some who are not sure how or where they became infected.

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency for COVID-19 beginning on January 27, 2020. On March 3, 2020, Governor Steve Bullock issued Executive Order 2-2020 declaring a state of emergency across the state of Montana pursuant to §§ 10-3-302, 10-3-311, and 10-3-312, MCA. A state of emergency is defined in §§ 10-3-103 and 10-3-302, MCA. In addition to the disaster/emergency authorities specified in Title 10 of the Montana Code Annotated, Montana law also authorizes the State to coordinate and direct a coordinated public health response to communicable disease outbreaks as specified in Title 50.

COVID-19 can spread rapidly in crowded settings, especially congregate living settings and indoor settings that lack the ability to social distance, such as prisons. COVID-19 outbreaks in prisons not only create severe risks for inmates and staff, but also create significant risk of COVID-19 spread among the broader community. Additional response measures, including identification and quarantine of prison staff affected by COVID-19, are essential to control the pandemic.

Face masks help prevent people who have COVID-19, including those who are pre-symptomatic or asymptomatic, from spreading the virus to others. The CDC advises that masks are most likely to reduce the spread of COVID-19 when they are widely used by people in public settings and where workers frequently come into close contact with other people. Using masks along with other preventative measures, including social distancing, frequent hand hygiene, and cleaning and disinfecting frequently touched surfaces, is one of the most effective strategies available for reducing COVID-19 transmission.

The Centers for Disease Control recommend testing of symptomatic and asymptomatic individuals with recent known or suspected exposure to COVID-19 to control transmission. Viral tests diagnose current infection with SARS-CoV-2, the virus that causes COVID-19. Viral tests evaluate whether the virus is present in a respiratory sample. Because of the potential for asymptomatic and pre-symptomatic transmission of COVID-19, it is vital that individuals exposed to people with known or suspected COVID-19 be quickly identified and quarantined.

The CDC recommends viral testing for close contacts of persons with COVID-19 in jurisdictions with testing capacity. The CDC further recommends where there is a concern for widespread transmission following the identification of new-onset COVID-19 infection among inmates or staff, facility management should consider a broad testing strategy, beyond testing only close contacts within the facility, to reduce the chances of a large outbreak.

Considering the above, and upon the advice of scientific and medical experts employed by state and local health departments, the Department of Corrections has concluded that the control of the epidemic within correctional facilities is necessary to protect the public health of inmates, staff, and the broader community. It is necessary, therefore, for staff viral testing in a variety of situations. Viral testing of DOC staff may include staff who have been exposed to COVID-19, but may also include:

- Close contact testing;
- Baseline facility testing, which may include mandatory testing for all employees or a sample of them;
- As a condition to return to work, if deemed necessary by Clinical Services Division and/or public health officials.

Testing and Employment with DOC

- Participation by DOC employees in any of the testing efforts is mandatory. Progressive discipline may be utilized for employees with no prior disciplinary history.
- DOC employees who refuse to participate in testing efforts may not work shifts at any facility or duty station within DOC and are subject to discipline. DOC will not provide paid leave to staff who have been offered testing and refuse to participate.
- DOC employees who are exhibiting signs of illness while at work and DOC employees awaiting laboratory test results as a result of mandatory testing, private testing or quarantine order with proper documentation may either be sent or required to stay home. Employees who have not exhausted available COVID-19 sick leave are eligible to use this leave when sent home from work because of exhibiting signs of illness or to await

viral test results. Employees who have exhausted available COVID-19 sick leave would be required to use other available leave, such as sick leave, accrued comp time, annual leave, or unpaid leave.

- DOC employees who refuse to return to duty after completion of the required quarantine period or a negative test result are subject to discipline. DOC will not provide paid leave to staff who refuse to return to duty.
- Proper documentation and records must be shared between the DOC and the employee. An employee who is required to quarantine, must provide the DOC with an official quarantine notice that includes an expected date of return from the health or safety agency requiring the quarantine and or testing result. Failure to provide documentation is considered a refusal to return to duty and is subject to discipline.

Personal Protection Equipment (PPE) and Employment with DOC

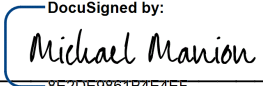
- Compliance and cooperation with current operational changes regarding COVID-19 Restrictions and required PPE is mandatory. Progressive discipline may be utilized for employees with no prior disciplinary history.
- DOC employees who refuse to wear proper, required PPE may not work shifts at any facility or duty station within DOC and are subject to discipline. Absent approved FMLA for medical reasons, DOC will not provide paid leave to staff who refuse to wear proper PPE.

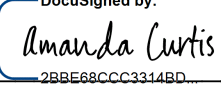
Direct supervisors and HR should be notified of any requests for reasonable accommodation.


DATED: 1/12/2021

FOR: State of Montana

FOR: Montana Federation of Public Employees

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